

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

UNITED STATES OF AMERICA

v.

DAMIAN MONTALVO

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CRIMINAL NO. M-09-1543-S1

**INFORMATION OF PRIOR CONVICTION/NOTICE OF
ENHANCEMENT OF PUNISHMENT PURSUANT TO TITLE 21, UNITED
STATES CODE, SECTION 851**

COMES NOW, the United States of America, by and through the United States Attorney in and for the Southern District of Texas, and the undersigned Assistant United States Attorney and hereby files this Information of Prior Conviction/Notice of Enhancement of Punishment Pursuant to Title 21, United States Code, Section 851.

I.

On or about March 25, 1997, defendant Damian Montalvo was convicted of a felony drug offense, specifically, possession with intent to distribute 453 kilograms of marijuana, in violation of Title 21 United States Code, Sections 841(a)(1), 841(b)(1)(B) and Title 18 United States Code section 2, in the United States District Court for the Southern District of Texas in Case Number 7:962CR00210-001. The Defendant received a sentence of imprisonment in the United States Bureau of Prisons for a term of sixty-three (63) months and a supervised release term of three (3) years upon release from confinement. The defendant was also ordered to pay a special assessment of \$ 100.00. The judgment was entered on April 22, 1997. A copy of the certified judgment of felony conviction is labeled Exhibit A and attached hereto.

II.

The filing of this Information of Prior Conviction/Notice of Enhancement of Punishment Pursuant to Title 21, United States Code, Section 851 has the effect of increasing the penalty for Counts One, Two, Three, Four, Five and Six of the above-numbered indictment currently pending against the defendant to a term of imprisonment of not less than 20 years and not more than life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18, or \$8,000,000, and a term of supervised release of at least 10 years, pursuant to Title 21, United States Code, Sections 960(b)(1)(importation)(Counts 1, 3 and 4); 841(b)(1)(A)(possession with intent to distribute)(Count 2, 5 and 6); and 841(b)(1)(B)(possession with intent to distribute).

WHEREFORE, premises considered, the Government requests that this Honorable Court inquire of the above defendant after conviction but before pronouncement of sentence whether the defendant affirms or denies the previous conviction as alleged in this information and inform the defendant that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

Respectfully submitted,

JOSE ANGEL MORENO
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Information of Prior Conviction/Notice of Enhancement of punishment Pursuant to Title 21, United States Code, Section 851 was Ecf-noticed, mailed, faxed, hand-delivered and/or e-mailed to Rick Salinas, the attorney for Defendant Damian Montalvo, on the 10th day of December, 2010.

By: Juan F. Alanis
Juan F. Alanis
Assistant United States Attorney